

1 BILL LOCKYER, Attorney General
of the State of California
2 GAIL M. HEPPELL
Supervising Deputy Attorney General
3 MARA FAUST, State Bar No. 111729
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5358
Facsimile: (916) 327-2247

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8 Attorneys for Complainant

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10 **BEFORE THE**
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:
13
14 LAURIE STUTZMAN
15202 Turquoise Circle
Chino Hills, CA 91709
15 Physician Assistant License No. PA 13014

16 and

17 MICHAEL LILLIS MCKININ
130 Donald Drive
Chico, CA 95973
18 Physician Assistant License No. PA 13460
19

20 Respondents.
21

Case No. 1E-2001-118549 and
1E-2001-118551

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

22 **FINDINGS OF FACT**

23 1. On or about October 23, 2002, Complainant Richard L. Wallinder, Jr., in
24 his official capacity as the Executive Officer of the Physician Assistant Committee, Department
25 of Consumer Affairs, filed Accusation No. 1E-2001-118549 and 1E-2001-118551 against Laurie
26 Stutzman (Respondent Stutzman) and Michael Lillis McKinin (Respondent McKinin) before the
27 Physician Assistant Committee.

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1 2. On or about February 8, 1993, the Physician Assistant Committee
2 (Committee) issued Physician Assistant License No. PA 13014 to Respondent Stutzman. On
3 June 24, 2002 Butte County Superior Court Judge Stephen E. Benson enjoined Respondent
4 Stutzman from working as a physician assistant in the state of California during the pendency of
5 the criminal proceedings. Respondent Stutzman's Physician Assistant License is renewed
6 until October 31, 2004.

7 3. On or about January 17, 1995, the Physician Assistant Committee
8 (Committee) issued Physician Assistant License No. PA 13460 to Respondent McKinin. On
9 June 24, 2002 Butte County Superior Court Judge Stephen E. Benson enjoined Respondent
10 McKinin from working as a physician assistant in the state of California during the pendency of
11 the criminal proceedings. Respondent McKinin's Physician Assistant License expired on
12 December 31, 2002.

13 4. On or about October 23, 2002, Arlene Krynski, an employee of the
14 Complainant Agency, served by Certified Mail a copy of the Accusation No. 1E-2001-118549
15 and 1E-2001-118551, Statement to Respondent, Notice of Defense, Request for Discovery, and
16 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondents' addresses of record
17 with the Committee, which was and is 15202 Turquoise Circle, Chino Hills, CA 91709 for
18 Respondent Stutzman and 130 Donald Drive, Chico, CA 95973 for Respondent McKinin. A
19 copy of the Accusation, the related documents, and Declaration of Service are attached as
20 exhibit A for Respondent Stutzman, and exhibit B for Respondent McKinin and both are
21 incorporated herein by reference.

22 5. Service of the Accusation was effective as a matter of law under the
23 provisions of Government Code section 11505, subdivision (c).

24 6. A copy of the signed postal returned receipt cards are attached hereto as
25 exhibit C, and are incorporated herein by reference. These returned receipt cards establishes that
26 both Respondents each received a copy of the Accusation and an Accusation packet including a
27 blank Notice of Defense.

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1 7. Government Code section 11506 states, in pertinent part:

2 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
3 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
4 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
5 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

6 8. Respondents Stutzman and McKinin both failed to file a Notice of
7 Defense within 15 days after service upon them of the Accusation, and therefore waived their
8 right to a hearing on the merits of Accusation No. 1E-2001-118549 and 1E-2001-118551.

9 9. California Government Code section 11520 states, in pertinent part:

10 "(a) If the respondent either fails to file a notice of defense or to appear at the
11 hearing, the agency may take action based upon the respondent's express admissions or
12 upon other evidence and affidavits may be used as evidence without any notice to
13 respondent."

14 10. Pursuant to its authority under Government Code section 11520, the
15 Committee finds Respondents are in default. The Committee will take action without further
16 hearing and, based on Respondents' express admissions by way of default and the evidence
17 before it, contained in exhibits A, B and C finds that the allegations in Accusation No.
18 1E-2001-118549 and 1E-2001-118551 are true.

19 DETERMINATION OF ISSUES

20 1. Based on the foregoing findings of fact, Respondent Stutzman has
21 subjected her Physician Assistant License No. PA-13014 to discipline, and Respondent McKinin
22 has subjected his Physician Assistant License No. PA-13014 to discipline.

23 2. A copy of the Accusation and the related documents and Declaration of
24 Services are attached.

25 3. The agency has jurisdiction to adjudicate this case by default.

26 4. The Physician Assistant Committee is authorized to revoke Respondents
27 Stutzman's and McKinin's Physician Assistant Licenses based upon the following violations
28 alleged in the Accusation:

1 a. Business and Professions code sections 2238, 3502.1, and 2241.5
2 as well as Health and Safety Code sections 11154, 11157, and 11170.

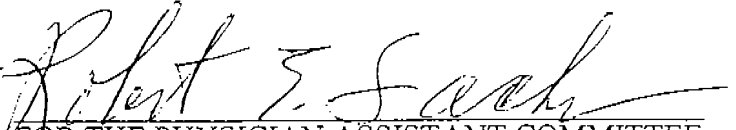
3 ORDER

4 IT IS SO ORDERED that Physician Assistant License No. PA-13014, heretofore
5 issued to Respondent Stutzman and Physician Assistant License No. PA-13014 heretofore
6 issued to Respondent McKinin, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondents may
8 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
9 within seven (7) days after service of the Decision on Respondents. The agency in its discretion
10 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
11 statute.

12 This Decision shall become effective at 5:00 p.m. on March 10, 2003

13 It is so ORDERED February 7, 2003

14 
15 FOR THE PHYSICIAN ASSISTANT COMMITTEE
16 MEDICAL BOARD OF CALIFORNIA
17 DEPARTMENT OF CONSUMER AFFAIRS
18 ROBERT SACHS, P.A., CHAIR

18 Attachments:

- 19 Exhibit A: Accusation No. 1E-2001-118549 and 1E-2001-118551, Related Documents, and
20 Declaration of Service on Respondent Stutzman
21 Exhibit B: Accusation No. 1E-2001-118549 and 1E-2001-118551, Related Documents, and
22 Declaration of Service on Respondent McKinin
23 Exhibit C: Postal Certified Receipt Cards

24 DOJ docket number: 03578160-SA2002AD0969
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BILL LOCKYER, Attorney General
of the State of California
GAIL M. HEPPELL, Supervising
Deputy Attorney General
MARA FAUST, State Bar No. 111729
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5358
Facsimile: (916) 327-2247

Attorneys for Complainant

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

LAURIE STUTZMAN
6 Vermillion Rd
Chico, CA 95928

Physician Assistant License No. PA 13014

and

MICHAEL LILLIS MCKININ
130 Donald Drive
Chico, CA 95973

Physician Assistant License No. PA 13460

Respondents.

Case No. 1E-2001-118549
and 1E-2001-118551

ACCUSATION

Complainant alleges:

PARTIES

1. Rick Wallinder (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physician Assistant Committee (hereinafter "the Committee").

2. On or about February 8, 1993, the Committee issued Physician Assistant License Number PA 13014 to Laurie Stutzman (Respondent Stutzman). The Physician Assistant

License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2002, unless renewed.

3. On or about January 17, 1995, the Committee issued Physician Assistant License Number PA 13460 to Michael Lillis McKinin (Respondent McKinin). The Physician Assistant License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2002, unless renewed.

JURISDICTION

4. This Accusation is brought before the Committee, under the authority of the following sections of the Business and Professions Code (Code).

5. Section 3527(a) of the Code provides that the Committee may impose discipline, including but not limited to suspension or revocation of a physician assistant license for unprofessional conduct including but not limited to violations of the Medical Practices Act, the Physician Assistant Practice Act and regulations duly adopted by the Committee.

6. Section 2238 of the Code provides, in part, that a violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating dangerous drugs or controlled substances constitutes unprofessional conduct.

7. Section 3502.1 of the Code states:

(a) In addition to the services authorized in the regulations adopted by the board, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a physician assistant, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order to a person who may lawfully furnish the medication or medical device pursuant to subdivisions (c) and (d). When issuing a drug order, the physician assistant is acting on behalf of and as an agent for a supervising physician and surgeon.

(b) "Drug order" for purposes of this section means an order for medication which is dispensed to or for a patient, issued and signed by a physician assistant acting as an individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of

1 Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued
2 pursuant to this section shall be treated in the same manner as a prescription or order of
3 the supervising physician, (2) all references to "prescription" in this code and the Health
4 and Safety Code shall include drug orders issued by physician assistants pursuant to
5 authority granted by their supervising physicians, and (3) the signature of a physician
6 assistant on a drug order shall be deemed to be the signature of a prescriber for purposes
7 of this code and the Health and Safety Code.

8 (c) A drug order for any patient cared for by the physician assistant that is issued
9 by the physician assistant shall either be based on the protocols described in subdivision
10 (a) or shall be approved by the supervising physician before it is filled or carried out.

11 (1) A physician assistant shall not administer or provide a drug or issue a drug
12 order for a drug other than for a drug listed in the formulary without advance approval
13 from a supervising physician and surgeon for the particular patient. At the direction and
14 under the supervision of a physician and surgeon, a physician assistant may hand to a
15 patient of the supervising physician and surgeon a properly labeled prescription drug
16 prepackaged by a physician and surgeon, manufacturer as defined in the Pharmacy Law,
17 or a pharmacist.

18 (2) A physician assistant may not administer, provide or issue a drug order for
19 Schedule II through Schedule V controlled substances without advance approval by a
20 supervising physician and surgeon for the particular patient.

21 (3) Any drug order issued by a physician assistant shall be subject to a reasonable
22 quantitative limitation consistent with customary medical practice in the supervising
23 physician and surgeon's practice.

24 (d) A written drug order issued pursuant to subdivision (a), except a written drug
25 order in a patient's medical record in a health facility or medical practice, shall contain the
26 printed name, address, and phone number of the supervising physician and surgeon, the
27 printed or stamped name and license number of the physician assistant, and the signature
28 of the physician assistant. Further, a written drug order for a controlled substance, except

1 a written drug order in a patient's medical record in a health facility or a medical practice,
2 shall include the federal controlled substances registration number of the physician
3 assistant. The requirements of this subdivision may be met through stamping or
4 otherwise imprinting on the supervising physician and surgeon's prescription blank to
5 show the name, license number, and if applicable, the federal controlled substances
6 number of the physician assistant, and shall be signed by the physician assistant. When
7 using a drug order, the physician assistant is acting on behalf of and as the agent of a
8 supervising physician and surgeon.

9 8. California Code of Regulations, title 16, section 1399.521, states:

10 "In addition to the grounds set forth in section 3527, subd. (a), of the code the
11 committee may deny, issue subject to terms and conditions, suspend, revoke or place on
12 probation a physician assistant for the following causes:

13 "(a) Any violation of the State Medical Practice Act which would constitute
14 unprofessional conduct for a physician and surgeon."

15 9. California Code of Regulations, title 16, section 1399.511 states that each
16 person holding a license shall immediately notify the Committee at its office of any and all
17 changes of mailing address, giving both the old and new address.

18 10. Section 2241.5 of the Code provides that the Intractable Pain Treatment
19 Act will not affect the power of the board or committee to deny, revoke or suspend a physician
20 and surgeon when the controlled substance is prescribed or administered for nontherapeutic
21 purposes, when complete and accurate records are not kept, when false or fictitious prescriptions
22 for controlled substances are written and when controlled substances are prescribed in violation
23 of the Health and Safety Code or this chapter.

24 11. Health and Safety Code section 11154 provides in part, that no person
25 shall knowingly prescribe a controlled substance to any person who is not under his or her
26 treatment for a pathology or condition. No person shall knowingly solicit, direct, induce, aid or
27 encourage a practitioner to unlawfully prescribe a controlled substance.

28 12. Health and Safety Code section 11157 provides that no person shall issue a

1 prescription that is false or fictitious in any respect.

2 13. Health and Safety Code section 11170 provides that no person shall
3 prescribe, administer, or furnish a controlled substance to himself.

4 14. Health and Safety Code section 11173 provides in part, that no person
5 shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the
6 administration of or prescription for controlled substances by fraud, deceit, misrepresentation, or
7 subterfuge, or by concealment of a material fact. No person shall make a false statement in any
8 prescription or order.

9 15. Health and Safety Code section provides that no person shall, in
10 connection with the prescribing, furnishing, administering or dispensing of a controlled
11 substance, give a false name or false address.

12 16. Section 125.3 of the Code provides, in pertinent part, that the Committee
13 may request the administrative law judge to direct a licensee found to have committed a
14 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
15 investigation and enforcement of the case.

16 17. Respondents Stutzman and McKirin are guilty of unprofessional conduct
17 within the meaning of Code sections 3502.1(b)(2), 3527, and 2238, in conjunction with Health
18 and Safety Code sections 11154, 11157, 11170, 11173 and 11174 and 16 CCR section 1399.521
19 as more specifically set forth hereinbelow.

20 DRUGS

21 18. Ambien, a brand name for zolpidem tartrate, is a Schedule IV controlled
22 substance pursuant to Health and Safety Code section 11057(hypnotic for sleep) and a dangerous
23 drug as defined by Business and Professions Code section 4022.

24 19. Ativan, a brand name for lorazepam, is a Schedule IV controlled substance
25 pursuant to Health and Safety Code section 11057(d)(13) and a dangerous drug as defined by
26 Business and Professions Code section 4022.

27 20. Norco, (also known as Lorcet.Lortab), a brand name for hydrocodone
28 bitartrate and acetaminophen, is a Schedule III controlled substance pursuant to Health and

Safety Code section 11056(e)(1) and a dangerous drug as defined by Business and Professions Code section 4022.

21. Darvocet, a brand name for propoxyphene napsylate, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(c)(2) and a dangerous drug as defined by Business and Professions Code section 4022.

22. Vicodin, a brand name for hydrocodone bitartrate and acetaminophen, is a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(3) and a dangerous drug as defined by Business and Professions Code section 4022.

23. Respondents are guilty of unprofessional conduct within the meaning of Code sections 2238, 3502.1, 2241.5, and Health and Safety Code sections 11154, 11157, 11170, and 11173.

FIRST CAUSE FOR DISCIPLINE

(Writing Forged Prescriptions)

(B & P Code §§ 2238, 3502.1, and 2241.5, H & S Code §§ 11154, 11157 and 11170)

24. In or about and between June 2000 and April 2001, respondent Stutzman wrote and/or authorized in excess of twenty prescriptions for narcotics either in her own name, or in the name of individuals who were not patients at the Feather River Tribal Clinic where respondent Stutzman worked as a physician assistant, without the permission of the prescribing/supervising physician as follows:

| Date | Drug | Quantity | Strength | Patient | RX# | Doctor | Milligrams/Unit |
|----------|----------|----------|----------|----------|--------------|-------------|-----------------|
| 6/10/00 | Ambien | 20 | 10mg | Mary S. | 963333 | Kazel/Stutz | 200 |
| 6/10/00 | Vicodin | 30 | 5mg | Mary S. | 963332 | Kazel/Stutz | 150 |
| 6/23/00 | Vicodin | 30 | 5mg | Mary S. | 255741 | Stutzman | 150 |
| 7/12/00 | Vicodin | 30 | 5mg | Stutzman | 4465375 | Brazil | 150 |
| 8/09/00 | Ambien | 20 | 10mg | Mary S. | 993899 | Moreheart | 200 |
| 8/15/00 | Hydrocod | 30 | 7.5mg | McKinin | 109921 | More/Stutz | 225 |
| 8/22/00 | Vicodin | 30 | 5mg | Stutzman | 4465375 | Brazil | 150 |
| 9/01/00 | Vicodin | 30 | 5mg | Mary S. | 1005582 | Moreheart | 150 |
| 9/20/00 | Ambien | 20 | 10mg | Mary S. | 612360 | Stutzman | 200 |
| 9/20/00 | Vicodin | 30 | 5mg | Mary S. | 612358 | Stutzman | 150 |
| 10/06/00 | Vicodin | 30 | 5mg | Mary S. | 1084148 | Moreheart | 150 |
| 10/21/00 | Vicodin | 45 | 5mg | Mary S. | 977965 | Moreheart | 225 |
| 10/31/00 | Norco | 45 | 10mg | Mary S. | 1096448 | Moreheart | 450 |
| 11/07/00 | Ambien | 20 | 10mg | Mary S. | 622478 | Stutzman | 200 |
| 11/07/00 | Vicodin | 30 | 5mg | Mary S. | 622477 | Stutzman | 150 |
| 12/09/00 | Ambien | 30 | 10mg | Mary S. | 1238486-2953 | Stutzman | 300 |
| 12/09/00 | Vicodin | 30 | 5mg | Mary S. | 1238487-2953 | Stutzman | 150 |

| | Date | Drug | Quantity | Strength | Patient | RX# | Doctor | Milligrams/Unit |
|---|---------|---------|----------|----------|---------|--------------|---------------|-----------------|
| 1 | 1/04/01 | Vicodin | 30 | 5mg | Mary S. | 635321 | Stutzman | 150 |
| 2 | 1/29/01 | Vicodin | 30 | 5mg | Mary S. | 641601 | Stutzman | 150 |
| 3 | 2/11/01 | Ambien | 20 | 10mg | Mary S. | 1277490-2953 | Stutzman | 200 |
| 4 | 2/14/01 | Norco | 60 | 10mg | John S. | 4004304 | OK'd by Stutz | 600 |

5 25. In or about and between November 2001 and June 2002, respondent
6 Stutzman wrote and/or authorized in excess of thirteen prescriptions for narcotics or
7 benzodiazepines either in her own name, or in the name of individuals who were not patients at
8 the City of Hope National Medical Center where respondent Stutzman worked as a physician
9 assistant, without the permission of the prescribing/supervising physician as follows:.

| | Date | Drug | Quantity | Strength | Patient | RX# | Doctor | Milligrams/Unit |
|----|----------|------------------------------|----------|----------|----------|--------|---------|-----------------|
| 11 | 11/13/01 | Hydrocodone | 40 | 5mg | Stutzman | 498042 | Ramin | 200 |
| 12 | 12/04/01 | Hydrocodone | 40 | 5mg | Stutzman | 498042 | Ramin | 200 |
| 12 | 1/07/02 | Ambien | 30 | 5mg | McKinin | 502773 | Wilson | 150 |
| 13 | 1/09/02 | Hydrocodone | 20 | 5mg | Stutzman | 502968 | Ramin | 100 |
| 13 | 1/09/02 | Lorazepam | 20 | 1mg | McKinin | 502995 | Wilson | 20 |
| 14 | 1/14/02 | Amitriptyline | 30 | 100mg | McKinin | 503435 | Wilson | 3,000 |
| 14 | 1/14/02 | Promethazine With Codeine | 120 | 2mg/ml | McKinin | 503435 | Wilson | 240 |
| 15 | 1/25/02 | Hydrocodone | 30 | 5mg | McKinin | 50468 | Wilson | 150 |
| 16 | 1/27/02 | Ambien | 20 | 10mg | Stutzman | 504661 | Kawachi | 200 |
| 16 | 2/15/02 | Hydrocodone | 30 | 5mg | McKinin | 506800 | Kawachi | 150 |
| 17 | 3/09/02 | Hydrocodone | 30 | 5mg | McKinin | 509032 | Wilson | 150 |
| 17 | 4/06/02 | Hydrocodone | 40 | 5mg | McKinin | 512013 | Wilson | 200 |
| 18 | 5/03/02 | Hydrocodone | 40 | 5mg | McKinin | 514623 | Wilson | 200 |

19 26. The above referenced prescriptions were improperly authorized by
20 respondent Stutzman for people who were not patients at the Feather River Tribal Clinic in
21 violation of Business and Professions Code sections 2238, 3502.1, and 2241.5 and Health and
22 Safety Code sections 11154, 11157 and 11170.

SECOND CAUSE FOR DISCIPLINE
(Writing Forged Prescriptions)

(B & P Code §§ 2238, 3502.1, and 2241.5, H & S Code §§ 11154, 11157 and 11170)

25 27. In or about and between June 2000 and April 2001, respondent McKinin
26 wrote and/or authorized in excess of seventy prescriptions for narcotics either in his own name or
27 in the name of individuals who were not patients at the Feather River Tribal Clinic where
28 respondent McKinin worked as a physician assistant.


1 violation of Business and Professions Code sections 2238, 3502.1, and 2241.5 and Health and
2 Safety Code sections 11154, 11157 and 11170.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Committee issue a decision:

- 6 1. Revoking or suspending Physician Assistant License Number PA 13014,
7 issued to Laurie Stutzman;
- 8 2. Revoking or suspending Physician Assistant License Number PA 13460,
9 issued to Michael Lillis McKinin;
- 10 3. Ordering Laurie Stutzman and Michael Lillis McKinin to pay the
11 Committee the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 125.3;
- 13 4. Taking such other and further action as deemed necessary and proper.

14 DATED: October 23, 2002.

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17 
18 RICHARD L. WALLINDER, JR.
19 Executive Officer
20 Physician Assistant Committee
21 State of California
22 Complainant
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